



46]. On January 6, 2021, the Court set the trial in this matter to begin on September 13, 2021 at the federal courthouse in Asheville, North Carolina. [1/6/2021 Docket Entry]. Because Plaintiff was incarcerated at the Prince William County Detention Center (“PWDC”) in Manassas, Virginia, nearly 450 miles from the Asheville courthouse, the Court ordered the parties to propose the matter in which the case should proceed. [Doc. 51]. Defendant asked the Court to conduct the trial by video conferencing or, in the alternative, stay the proceedings until Plaintiff’s release. [Doc. 53]. Plaintiff moved the Court to stay the case until after his release from custody. [Doc. 52]. The Court granted Plaintiff’s motion and stayed the proceedings pending Plaintiff’s anticipated release on August 25, 2022. [Doc. 55].

On August 1, 2022, Plaintiff advised the Court of his earlier than expected release from custody and provided the Court with his new address in Woodbridge, Virginia. [Doc. 57]. On August 8, 2022, the Court set the trial in this matter to begin on November 14, 2022 at the Asheville courthouse and entered a Pretrial Order and Case Management Plan (“Pretrial Order”). [Doc. 58]. Defendant now moves to reopen discovery to depose the Plaintiff. [Doc. 59].

As grounds, Defendant states that because Plaintiff was incarcerated “well beyond” the close of discovery, Defendant did not have a reasonable

opportunity to depose Plaintiff before trial. [Doc. 60 at 1]. Defendant argues that, without a deposition before trial, Plaintiff's cross examination will be longer and "far more focused on fact-finding" and that "nearly every answer [Plaintiff] provides regarding his religious beliefs and dietary practices will constitute a surprise to [Defendant] at trial." [Id. at 4]. Moreover, Defendant claims that because Plaintiff was incarcerated through the end of the discovery period taking his deposition "went from difficult to nearly impossible due to the Covid-19 pandemic." [Id. at 5]. Finally, Defendant argues that this belated deposition does not prejudice Plaintiff and actually inures to Plaintiff's benefit because a video of Plaintiff's deposition taken while incarcerated would have shown him wearing "prison-issue attire." [Id. at 5-6]. Defense counsel states that, weeks after being notified of Plaintiff's release from custody, counsel sent Plaintiff a letter asking for discovery to be reopened to take Plaintiff's deposition before trial and that Plaintiff "has not consented to reopening discovery." [Id. at 5].

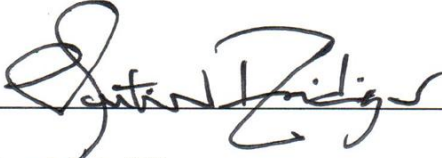
The Court will allow Defendant's motion, but solely for the taking of the Plaintiff's deposition. As noted, the trial in this matter is set to begin November 14, 2022. The Court, therefore, will order that Plaintiff's deposition be conducted no later than October 25, 2022 to allow compliance with the terms of the Pretrial Order entered in this case.

**ORDER**

**IT IS, THEREFORE, ORDERED** that Defendant's Motion to Reopen Discovery [Doc. 59] is **GRANTED** and the deposition of the Plaintiff shall be conducted no later than October 25, 2022.

**IT IS SO ORDERED.**

Signed: October 3, 2022

  
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Martin Reidinger  
Chief United States District Judge

